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**FACSIMILE COVER SHEET**

December 22, 2005

TO: Mail Stop Petitions  
Serial No.: 09/800,804  
TELEFAX: Fax # (571) 273-8300  
COMPANY/FIRM: United States Patent and Trademark Office  
FROM: Tina Manor for Bruce S. Londa  
ATTORNEY DOCKET NO.: 101215-205

**MESSAGE:**

I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark Office on the date shown below:

Petition to Withdraw Holding of Abandonment (4 pages)  
Exhibit A: Request for Continued Examination (1 page)  
Exhibit B: Declaration by J. D. Hengelhaupt (2 pages)

By   
Tina Manor

Date December 22, 2005

We are transmitting 8 pages, including cover page. If the transmission is not complete, please call (212) 808-0700 and ask for Tina Manor at Ext. 687.

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the within petition and attachments were filed with the United States Patent and Trademark Office on December 22, 2005, by facsimile to (703) 842-9306 (571) 2-73-8300.

  
Tina Manor

101215-205

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Aniouar Bjcoumikhov

SERIAL NO.: 09/800,804

December 22, 2005

Hon. Commissioner of Patents  
Alexandria, VA 22313**PETITION UNDER 37 CFR § 1.181(a)  
TO WITHDRAW HOLDING OF ABANDONMENT**

SIR:

Per Notice of Abandonment dated January 13, 2004, the above-identified application is held abandoned for failure to timely file a proper reply to the Office letter mailed on 25 February 2003. Specifically, it is alleged that a reply was received on July 28, 2003, but it does not constitute a proper reply to the final rejection.

The holding is in error as a Request for Continued Examination (RCE) had been filed on August 25, 2003 in addition to the reply dated July 28, 2003. A copy of the RCE as filed is enclosed (exhibit A). The paper filed includes a certificate of the facsimile transmission. It is noted that while a Notice of Abandonment appears to have been issued

by the PTO on January 13, 2004, the German representative J. D. Hengelhaupt was not made aware of such until July 25, 2005 (see enclosed Declaration of J. D. Hengelhaupt, exhibit B). Applicant respectfully submits that the Notice of Abandonment has not been forwarded by his US-Attorney, Mr. Brian Wamsley of Goodwin & Procter, New York, USA, to his German representative, Mr. Juergen D. Hengelhaupt of Gulde Hengelhaupt Ziebig & Schneider, Berlin, Germany, and therefore had not been brought to the attention of the applicant (see Declaration, exhibit B). In July 2005 the German representative conducted an investigation into the status of the application. A study of the PTO online file wrapper led to the discovery of the abandonment on July 25, 2006 (see Declaration, exhibit B). Immediate steps were taken to contact the US representative. On July 26, 2005, Mr. Wamsley informed Mr. Hengelhaupt that the abandonment had been a mistake as an RCE had been timely filed (see Declaration, exhibit B). On July 27, 2005, Mr. Hengelhaupt instructed Mr. Wamsley to take all steps to withdraw the holding of abandonment (see Declaration, exhibit B). On September 15, 2005, Mr. Hengelhaupt learned through a letter from Mr. Wamsley that so far no steps had been taken to withdraw the abandonment (see Declaration, exhibit B). A following search for a new US representative led to the revocation of the power of attorney of Mr. Wamsley of Goodwin & Procter on November 9, 2005, and the appointment of the undersigned as new representative. Subsequently, a revocation and new power of attorney was filed on November 16, 2005, and a copy of the file wrapper was ordered. Consequently, this petition to withdraw the holding of abandonment is submitted.

Therefore, Applicant respectfully request that the Commissioner exercise his authority and withdraw the holding of abandonment, and accordingly proceed to send the

application to the examiner for further processing.

No fee is believed to be due for consideration of this petition. However, should the Commissioner determine that a fee is, in fact, due, he is hereby authorized to charge the fee deemed to be due to Deposit Account No. 14-1263.

#### **CONDITIONAL PETITION TO REVIVE**

If the above request for withdrawal of abandonment is denied, then the undersigned hereby files a petition to revive under 37 CFR 1.155(c) and 1.1316(c).

The entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition was unintentional.

If the petition to withdraw the holding of abandonment is not granted, and the conditional petition is necessary, please charge the required petition fee to deposit account no. 14-1263.

Although applicant has filed the Request for Continued Examination over two (2) years ago, this document is again submitted and this present response is to be considered as the Response to the Office letter.

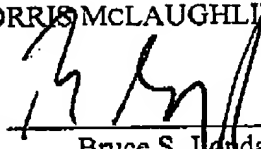
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punished by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS MCLAUGHLIN & MARCUS

By



Bruce S. Itonda  
Reg. No. 33,331

Norris, McLaughlin & Marcus, P.A.  
875 Third Avenue, 18<sup>th</sup> Floor  
New York, New York 10022  
Phone: (212) 808-0700  
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Enclosures

- Copy of the RCE, Exhibit A
- Declaration, Exhibit B

10/15/2003 17:24 FAX 212 358 3333

GOODWIN PROCTER

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PTO/5530 (01-03)  
Approved for use through 04/30/2003. OMB 0951-0091  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it contains a valid OMB control number.

<b>Request For Continued Examination (RCE) Transmittal</b>  Address to: Commissioner for Patents Box RCE Washington, DC 20231	<b>Application Number</b>	08/800,804
	<b>Filing Date</b>	March 7, 2001
	<b>First Named Inventor</b>	Bjournikov
	<b>Art Unit</b>	2882
	<b>Examiner Name</b>	Craig E. Church
	<b>Attorney Docket Number</b>	103701-13488

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114**

- a. ☒ Previously submitted
- i. ☒ Consider the amendment(s) under 37 CFR 1.116 previously filed on July 25, 2003  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_

b. ☐ Enclosed

- i. ☐ Amendment/Reply
- ii. ☐ Affidavit/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☒ Other: Applicant hereby formally requests a telephonic interview with the Examiner prior to issuance of any office action.

3. **Fee**

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.  
The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 06-0923
- a. ☒ RCE fee required under 37 CFR 1.17(e)
- i. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- ii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED</b>	
Name (Print/Type) <u>Alison B. Kessler</u>	Registration No. (Attorney/Agent) <u>47,703</u>
Signature <u>[Signature]</u>	Date <u>August 25, 2003</u>
<b>CERTIFICATE OF MAILING OR TRANSMISSION</b>	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. <u>Mail Ship Date</u> <u>Aug 26, 2003</u>	
Name (Print/Type) <u>Alison B. Kessler</u>	Date <u>August 25, 2003</u>
Signature <u>[Signature]</u>	

Page 1 of 2  
This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 38 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:  
If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

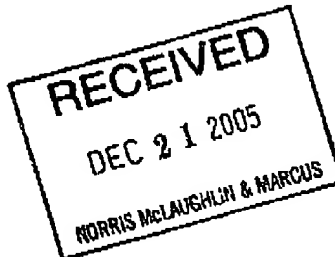
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**GULDE HENGELHAUPT ZIEBIG & SCHNEIDER**

Patentanwälte · Rechtsanwälte

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by facsimile

Datum / Date:	December 16, 2005
Ihr Zeichen / Your File:	101215-205
Unser Zeichen / Our File:	P88300US/HH
Land / Country:	USA
Ankerzeichen / File No.:	09/800.804
Anmelder / Applicant:	IFG Institute for Scientific Instruments
Titel / Title:	Method and Device for Focusing X-Rays for the Realization of X-Ray Zoom Optics

Rechtsanwälte  
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**Declaration by J. D. Hengelhaupt, partner of Gulde  
 Hengelhaupt Ziebig & Schneider and German  
 representative of the applicant**

While a Notice of Abandonment appears to have been issued by the PTO on January 13, 2004, our firm was not aware of such until July 25, 2005. The Notice of Abandonment has never been forwarded by US-representative Mr. Brian Wamsley of Goodwin & Procter, New York, USA to our firm, and therefore had not been brought to the attention of the applicant.

On July 25, 2005, our firm conducted an investigation into the status of the application. A study of the PTO online file wrapper led to the discovery of the abandonment. Immediate steps were taken to contact the US representative.

On July 26, 2005, Mr. Wamsley informed our office that the abandonment had been a mistake as an RCE had been timely filed.

On July 27, 2005, Mr. Hengelhaupt instructed Mr. Wamsley to take all steps to withdraw the holding of abandonment.

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GULDE HENGELHAUPT ZIEBIG & SCHNEIDER Seite 2 des Schreibens vom 16. Dezember 2005

On September 15, 2005, Mr. Hengelhaupt learned through a letter from Mr. Wamsley that so far no steps had been taken to withdraw the abandonment.

Consequently, a search for a new representative was performed and Mr. Londa of Norris McLaughlin & Marcus was appointed to the case on November 9, 2005.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punished by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



J. D. Hengelhaupt  
Patent Attorney